UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

MONROE DIVISION

LINDA ROLLINS **CIVIL ACTION NO. 08-0387**

VERSUS **JUDGE ROBERT G. JAMES**

ST. JUDE MEDICAL, ET AL. **MAG. JUDGE KAREN L. HAYES**

JUDGMENT

For the reasons set forth in Magistrate Judge Hayes' Report and Recommendation [Doc. No. 35], which this Court ADOPTS, and for the reasons set forth in this Court's Ruling,

IT IS ORDERED that the Motion to Dismiss [Doc. No. 16] filed by Defendants St. Jude Medical, Inc.; Kennsey-Nash Corporation; Tyco International, Inc.; Wyeth; and Tyco Healthcare Group LP (collectively referred to as "Defendants") is GRANTED IN PART AND DENIED IN PART as follows:

- Defendants' Motion to Dismiss is GRANTED with respect to claims based on (1) unreasonably dangerous/defective design, manufacture, construction/composition, and marketing; (2) failure to provide adequate warnings; (3) failure to provide adequate instructions; (4) lacked of informed consent; (5) redhibition; (6) failure to train; (7) failure to communicate to the medical community the possibility of complications discovered after the FDA approval process ended; and (8) failure to warn the public of the dangers that the Angio-Seal posed for individuals with small blood vessels, **to the extent that such claims challenge actions on the part of Defendants that complied with FDA-approved standards and requirements.** These claims are DISMISSED WITH PREJUDICE. Rollins may seek leave to amend her complaint should discovery reveal that Defendants failed to comply with FDA regulations regarding any of the above claims and that such failure caused her injuries.

- Defendants' Motion to Dismiss Rollins's breach of warranty, redhibition, and informed consent claims on the grounds that these claims fail as a matter of law is DENIED. Defendants may file the appropriate motion at a later date should Rollins amend her complaint to assert non-preempted breach of warranty, redhibition, and informed consent claims.

- Defendants' Motion to Dismiss Rollins's claim that Defendants failed to abide by FDA manufacturing and packaging specifications is DENIED.

- Defendants' Motion to Dismiss Rollins's claim that Defendants failed to abide by FDA reporting requirements is GRANTED IN PART and DENIED IN PART. The Motion to Dismiss is GRANTED to the extent that Rollins claims Defendants failed to file an adverse event report pertaining to her procedure, and this claim is DISMISSED WITH PREJUDICE. The Motion to Dismiss is otherwise DENIED as to this claim.

MONROE, LOUISIANA, this 20 day of October, 2008.

ROBERT G. JAMES
UNITED STATES DISTRICT JUDGE